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SECDEF FOR OSD(P)/STRATCAP  
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TAGS: [KACT](#) [MARR](#) [PARM](#) [PREL](#) [RS](#) [US](#) [START](#)  
SUBJECT: START FOLLOW-ON NEGOTIATIONS, GENEVA (SFO-GVA-VI):  
(U) TREATY TEXT AND DEFINITIONS WORKING GROUP MEETING,  
OCTOBER 29, 2009, P.M. SESSION

Classified By: A/S Rose E. Gottemoeller, United States  
START Negotiator. Reasons: 1.4(b) and (d).

11. (U) This is SFO-GVA-VI-041.

12. (U) Meeting Date: October 29, 2009  
Time: 3:00 - 6:00 P.M  
. Place: U.S. Mission, Geneva

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SUMMARY  
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13. (S) The fifth Treaty Text and Definitions Working Group (TTDWG) meeting of the session was held at the U.S. Mission on October 29, 2009. The TTDWG discussed Articles XIV, IX, and VIII of the U.S.-proposed Joint Draft Text (JDT). Both sides agreed in principle to the provisions of Article XIV, which addressed not assuming international obligations in conflict with the treaty and the prohibition against transferring strategic offensive arms (SOA) to third States. However, the Russian side proposed the word "Parties" in lieu of "States," in an attempt to expand the prohibition of not transferring SOA to non-State entities such as the North Atlantic Treaty Organization (NATO). The U.S. side said it would study the Russian proposal.

14. (S) Both sides agreed on Article IX, National Technical Means (NTM), with the exceptions of the sentence clarifying that the non-interference with NTM includes activities at test ranges and the U.S. proposal to include text addressing unique identifiers for mobile launchers of ICBMs. Lastly,

with regard to text in Article VIII addressing the public release of information from the Memorandum of Understanding (MOU), the Russian Delegation expressed concern that Russian law treated nearly all such information as classified. The U.S. Delegation agreed to review this portion of the JDT in order to address these concerns.

¶5. (S) Subject Summary: Article XIV: Prohibition Against Transferring SOA; Article IX: National Technical Means (NTM); and, Article VIII: Memorandum of Understanding Data.

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ARTICLE XIV: PROHIBITION  
AGAINST TRANSFERRING SOA  
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¶6. (S) Ambassador Ries opened the meeting and offered the floor to Mr. Koshelev for a discussion on Article XIV. (Begin comment: Article XIV of the U.S.-proposed JDT addressed the prohibition of the Parties against assuming any international obligations that would conflict with the treaty and the non-transfer of SOA to third parties. End comment.) Koshelev commented that the first sentence of Article XIV contained two separate ideas: 1) not to undertake obligations that would be in conflict with the treaty; and, 2) not to transfer SOA to third States. Koshelev inquired about the United States' level of commitment to the concept of both sides not transferring SOA to third parties. Koshelev noted that the obligation not to transfer nuclear weapons, was already in the Nuclear Non-Proliferation Treaty (NPT) which applied to both the United States and Russia. He

queried whether the United States desired to strengthen this obligation. Koshelev stated that if the United States wished to repeat the words of the same NPT article in the Strategic Arms Reduction Treaty (START), the Russian Delegation would acquiesce, but he considered such action redundant.

¶7. (S) Ries asked Koshelev whether he thought the entire sentence was redundant or only the phrase about transferring SOA. Koshelev replied that it was the latter. Ries made a general comment that, in drafting the new treaty, the U.S. approach was to examine the language of each article in START and evaluate whether or not to carry it over. If words were not relevant or did not affect the new treaty, they were not included. An important consideration in this evaluation was that phrases judged wise and important enough to be in START suggested that they should be retained in the new treaty. Prohibitions were good examples. The fact that a given prohibition was not violated was good but that did not mean that it should not be restated in the new treaty. Returning to Article XIV, Ries noted that, in the first sentence regarding the non-transfer of SOA, there was an important exception which still existed. Therefore, the sentence was still relevant. Koshelev replied that this second phrase of the sentence did not exist in START and so it was difficult for the Russian Delegation to understand its origin. Ries answered that it came directly from the First Agreed Statement of START.

¶8. (S) Ries continued that, with regard to the non-transfer of SOA, Article XIV had a broader reach than the NPT prohibition against the transfer of nuclear weapons. Koshelev stated that he had heard these arguments from his Ukrainian colleagues in other venues. Ukraine had SOA but not nuclear weapons. Koshelev continued that the Ukrainians insisted on their rights to possess these SOA because there were no limits on them. However, Koshelev finished by saying that if the United States desired this provision, it would go into the new treaty.

¶9. (S) Koshelev requested that, in the spirit of compromise, the United States should agree to replacing the phrase "third States" with the phrase "third Parties" in the second sentence. Koshelev explained that "Party" was much a broader term than "State" and made the prohibition more comprehensive. For example, "Party" also included

international organizations such as the United Nations. Additionally, Koshelev stated that using the term "Parties" would make it even clearer to the United States of Russia's unambiguous intention never to transfer SOA to, for example, Osama Bin Ladin. Ries remarked that these examples were somewhat farfetched and explained that the reason for using "States" was because of the existing pattern of cooperation between the United States and the United Kingdom (UK). Ries stated that the United States was not in the practice of transferring SOA to international organizations or Parties. Mr. Dean commented that using the term "Parties" would establish a broad prohibition against transferring SOA to any Party. He noted that the phrase at the end of the article would still allow for such transfers if there was an existing pattern of cooperation between a State and another third State, which meant that the scope of the exception was narrower than the prohibition (e.g., that neither Party could rely on an existing pattern of cooperation with a third

Party, vice State, to avoid the transfer prohibition). Dean concluded that the United States would prefer to study the implication of the use of the word "Parties" which was a much broader term than the word "States."

¶10. (S) Koshelev inquired whether the United States intended to establish a pattern of cooperation for transferring SOA to non-State actors. Dean replied that the United States would have to study the implications of the Russian proposal in view of current established practices. Koshelev conceded that the phrase would not influence existing patterns of cooperation and, moreover, the purpose of the article was to safeguard those existing patterns from possible disruptions. Ries stated that legal counsel had advised that using the term "Parties" in lieu of "States" required further study and noted that since "States" was used in the first and last sentences, it seemed consistent to use it throughout the article. Koshelev replied that this was because those sentences addressed different issues. Specifically, the first sentence made a generic statement prohibiting the transfer of SOA to third States and the last sentence addressed existing patterns of cooperation to establish for any exceptions.

¶11. (S) Ries asked whether, by substituting "Parties" for "States," Russia was trying to affirm something. Koshelev replied that the intent of the Russian proposal was to broaden the obligation. Adm Kuznetsov stated that the United States had obligations under NATO in which Qs nuclear weapons served as an umbrella to the member states. Likewise, Russia had the same obligation under its collective security treaty. The United States had forces in NATO as did Russia in its collective security organization. Therefore, the armed forces of NATO were comprised of forces from the member nations. Since NATO provided for the collective defense of its member states, Kuznetsov asked whether the United States had any intention to transfer nuclear weapons to NATO. Ries replied that by inserting this article into the treaty, the United States was demonstrating that it was willing to live within its restrictions that included no existing patterns of cooperation with the one exception that had been spelled out in START. Kuznetsov stated that the Russian Delegation was not against any part of this article or with the existing pattern of cooperation between the United States and the UK. The Russian objective was to broaden the article's applicatQ because international organizations have their own armed forces. Ries asked whether the Russian side intended to declare an existing pattern of cooperation. Koshelev replied that Russia did not have any such patterns of cooperation. Mr. Taylor summed up the discussion by noting that the only substantive issue was whether to use the word "Parties" or the word "States" in the second sentence.

¶12. (S) Moving on to Article IX,, Ries stated that NTM was a very important tool, along with inspections, for verifying treaty compliance. This was a principle carried forward from the U.S. experiences with START and with treaties that

predated START. The U.S. Delegation noted that some of the language that had been drawn directly from START had been changed in the Russian proposal. The United States understood the Russian desire to reduce the treaty text, but in the case of NTM, such changes may be perceived negatively.

Ries stated that it was important for both sides to show that they continued to attribute great importance to NTM.

¶13. (S) Turning to paragraph 1, Ries stated that the United States preferred using the phrase "shall use NTM" vice "undertakes to use NTM." Koshelev asked why the U.S. proposal used separate paragraphs. (Begin comment: In Article IX of the U.S.-proposed JDT, the U.S. version was separated into four separately numbered paragraphs. The Russian proposal had one paragraph subdivided into three sub-paragraphs. End comment.) Ries replied that the paragraph was structured for clarity and presentation. For example, the third paragraph had a long formulation and combining it into one large paragraph would have been cumbersome. Kuznetsov stated that Russia understood the principle of the obligations under this article and intended to continue them. Therefore, the Russian Delegation did not object to the U.S. formulation-albeit with some exceptions. Kuznetsov declared that the Russian approach was to treat all ICBMs in the same manner and not to have different provisions for mobile ICBM launchers. That principle was the basis for the formulation of the third paragraph in the Russian proposal. It was also the reason that discussions on this article should be limited until the issue of mobile ICBMs was resolved. Regarding paragraph four, Kuznetsov questioned the relationship of unique identifiers (UID) to NTM, noting that UIDs could not be observed by NTM. Mr. Kamenskiy echoed that he had seen UIDs himself and could vouch that they were not visible to NTM. Kuznetsov expanded his question to inquire why UIDs should be included in the treaty text at all. He acknowledged that UIDs may be related to inspections and, therefore, may belong in the Inspection Protocol (IP). So, even if agreement was reached regarding their utility, UIDs should be addressed in the second tier document. Kuznetsov summarized that, in principle, the Russian Delegation had no other objections to the NTM article and that paragraph labeling was unimportant. Rather, the Russian side was not able to understand the relationship of UIDs to NTM.

¶14. (S) Ries stated that the United States viewed UIDs as a critical element in the treaty for verifying compliance. An example was verifying compliance of treaty limitations on non-deployed mobile ICBMs. UIDs facilitated the confirmation of Russian-provided data on the number and location of ICBMs.

This was necessary in order for the United States to understand the number of deployed and non-deployed missile systems to appreciate the total force that could be generated. Kuznetsov replied that he now recognized that the U.S. proposal used separate paragraphs so that it could address topics beyond NTM. Kuznetsov reiterated his view that, as written, the U.S. version combined topics that were not related. UIDs, if ultimately accepted, should go in the treaty article on inspections or the IP. Ries replied that this article addressed verification and that, since both NTM and UIDs were under that category, it was logical to group them together. Kuznetsov responded that the Russian position was that only NTM should be addressed because this article's purpose was to ensure that NTM operated properly. Beyond

that, he counseled waiting until the issue of mobile launchers of ICBMs and other related items were resolved. Kuznetsov summarized as follows: 1) Russia had no objection to the inclusion of NTM as contained in START; and 2) UIDs were not acceptable in this article. Kuznetsov stated that by noon tomorrow, the Russian Delegation would provide the

U.S. Delegation a revised proposal of this article with the areas of disagreement highlighted. Ries acknowledged that the two sides had differing views regarding this article's role with respect to verification. Ries then queried Kuznetsov on paragraph three and, before she could finish her question, Kuznetsov stated that the Russian Delegation completely concurred with the U.S. proposal. Ries noted that there will need to be further discussion on this article.

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ARTICLE VIII: MEMORANDUM  
OF UNDERSTANDING DATA  
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¶15. (S) Ries commented that in the last meeting, the U.S. Delegation had intended to provide the Russian Delegation a revised JDT of Article VIII. Ries continued that the final draft was not yet finished but that the U.S. Delegation wanted to clarify that the U.S. position on the release of MOU data was very similar to the START formulation with the exception of the release of data related to nuclear warheads.

In the case of data related to nuclear warheads, only the aggregate numbers would be released every six months. Ries summarized that the U.S. proposal would allow for the public release of specified data and would protect sensitive data as well.

¶16. (S) Koshelev stated that the U.S. proposal contained certain points that were not yet agreed upon by the other working groups. However, the Russian Delegation would consider it. Ries replied that there was a conceptual distinction between the U.S. and Russian proposals. In the U.S. approach, MOU data was releasable with specific exceptions. In the Russian approach, on the other hand, MOU data was not releasable "unless otherwise agreed." Ries remarked that this was a strong prohibition and so the spirit of the two versions was somewhat different. Koshelev replied that the United States and Russia had legal procedures for disclosing information. In accordance with Russian law, with some exceptions, all information related to START was classified and, therefore, could not be made public. Koshelev noted that, with regard to the Moscow Treaty's Bilateral Implementation Commission (BIC), Russia never publicized the six-month reports. Koshelev commented that, in his opinion, the United States had no obstacles to releasing its own information to the public. However, in the Russian case, this was not so. Ries stated that the U.S. side would consider how to address the Russian side's concerns.

¶17. (U) Documents exchanged: None.

¶18. (S) Participants:

U.S.

Amb Ries

Lt Col Comeau  
Mr. Connell  
Mr. Dean  
Dr. Fraley  
Mr. Sims  
Mr. Taylor  
Mrs. Zdravecky  
Mr. Shkeyrov (Int)

RUSSIA:

Mr. Koshelev  
Ms. Fuzhenkova  
Col Kamenskiy  
Ms. Kotkova  
Adm (Ret) Kuznetsov  
Ms. Melikbekian  
Mr. Gauduk (Int)

¶19. (U) Ries sends.  
GRIFFITHS